

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.02.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) Nos.1914 and 1665 of 2017

The Executive Engineer
Tamil Nadu Housing Board,
Tatabad,
Coimbatore - 12.

... Petitioner in
both CRPS

Versus

Kamalam (Died)
1. K.Venkatesh
2. P.C. Kondasamy
3. Tmt. Sarojini
4. The Land Acquisition Officer
and Special Tahsildar (Land Acquisition),
Housing Development Scheme No.1,
Coimbatore.

... Respondents in
C.R.P.(NPD)
No.1914 of 2017

1. V.Saraswathiammal
2. The Land Acquisition Officer
and Special Tahsildar (Land Acquisition),
Housing Development Scheme No.1,
Coimbatore.

... Respondents in
C.R.P.(NPD)
No.1665 of 2017

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Civil Revision Petition filed under Article 227 of the Constitution of India to allow two Civil Revision Petitions and to set aside the fair and decretal orders passed in E.P. No.79 of 2015 in L.A.O.P. No.244 of 1990, dated 02.06.2016 and E.P. No.286 of 2014 in L.A.O.P. No.414 of 1994, dated 02.06.2016 on the file of II Additional Sub Court, Coimbatore respectively.

For Petitioner
in both CRPs : Mr.R.Jayaseelan

For Respondents
in both CRPs : Mr.S.Silambanan,
learned Senior Counsel
for Mr.C.Prabakaran for R1 in
CRP No.1665 of 2017

ORDER

By consent of both the parties, this Civil Revision Petition are taken up for final disposal.

2. At the time of hearing, both the learned counsel represented that the orders passed by the Court below have to be set aside and the matters have to be remitted to the Court below to decide the calculation of interest for the Solatium, by this Court, by following the decision of the Hon'ble Supreme Court in **2001 7 SCC 2011 in Sunder Versus Union of India** and in **Civil Revision Petition NPD No.2584 of 2010, dated 25.04.2014 (K.G.Krishnamoorthi and others versus the Sub Collector)** wherein this Court in relevant paragraph 20 (iii) held as follows :-

20 (iii) As regards deposit of amount, the first deposit of Rs.5,42,172/- was deposited only on 25.01.1994. Thereafter, Rs.5,42,140/- was deposited on 06.06.1994. For the third time, a sum of Rs.10,84,345/- was deposited on 07.02.1997. A sum of Rs.5,96,657/- was deposited on 04.07.2002 and lastly, a sum of Rs.25,07,069/- was deposited on 13.02.2010. Thus, a total sum of Rs.52,72,383/- has been deposited so far as against the original compensation amount of Rs.1,10,874/- which was enhanced by the Reference Court to Rs.12,58,000/-. As per the calculation memo filed on behalf of the revision petitioners, still a sum of Rs.27,62,498.53 is due and payable by the respondents. As discussed above, as per the constitutional bench decision of the Honourable Supreme Court reported in Gurpreet Singh vs. Union of India 2006 8 SCC 457 if there is no specific direction given by the Court, interest alone has to be adjusted towards the amount

deposited. With this basis, when we analyse the memo of calculation filed by the petitioner, there is a minor error committed in arriving at the amount. Firstly, interest on solatium has to be charged only from 19.09.2001 and not prior to that date as per the decision rendered in Gurpreet Singh case. However, in the calculation memo filed by the petitioner, petitioner has calculated interest payable by the respondent on solatium from the date of decree. Therefore, if this portion of the memo of calculation filed by the petitioner is altered, the amount payable to the petitioners will be worked out..."

3. The learned counsel for the petitioner also undertakes before this Court that after the final order passed in Execution Petition, the amount will be deposited.

4. In the light of the aforesaid judgment, the orders passed by the Court below are set aside and the matters are remitted to the Court below to pass appropriate orders afresh, after giving an opportunity to the parties concerned within a period of eight weeks from the date of receipt of the copy of this order. Accordingly, these Civil Revision Petitions are allowed with the above directions. No costs.

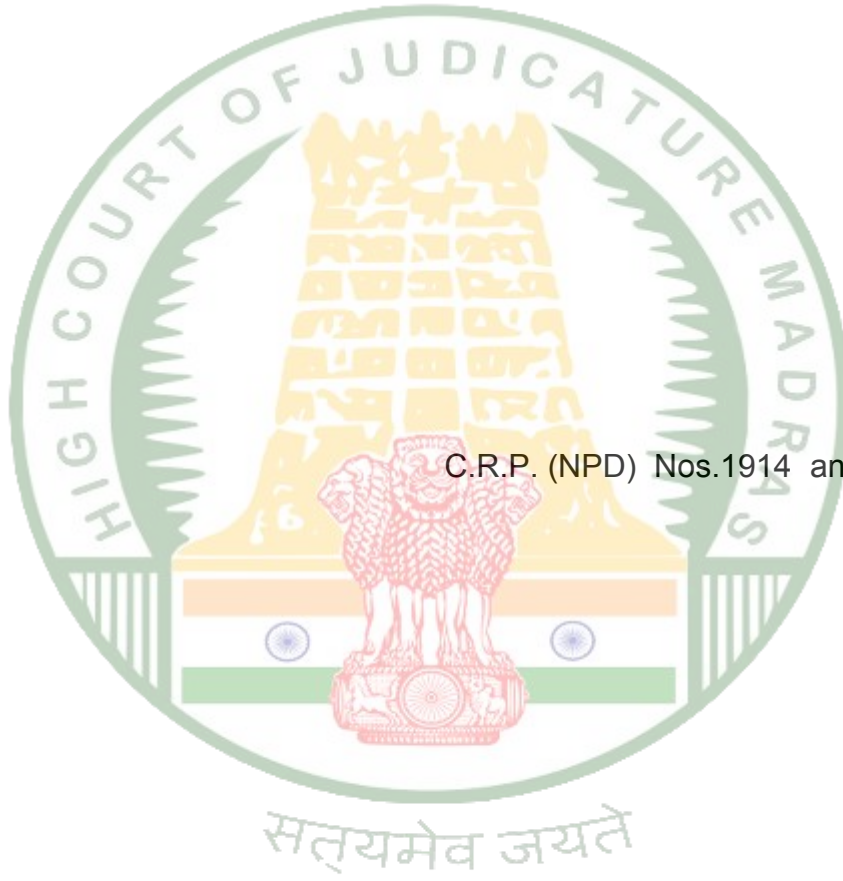
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Internet : Yes / No
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To
II Additional Sub Court, Coimbatore

D.KRISHNAKUMAR, J.

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